

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FRANCIS HENRY RUGGIERO, :
Plaintiff,

v.

COUNTY OF ORANGE; CARL E. DUBOIS, :
Sheriff; K. LYONS, Sergeant; JAMES :
POTTER, Plea Coordinator Captain; :
WELLPATH, formerly Correct Care Solutions; :
SALWA KHOURI, Doctor; and IBELLIS :
DIAZ, :
Defendants.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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ORDER

19 CV 3632 (VB)

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Chambers of Vincent L. Briccetti JMK

Plaintiff, who is proceeding pro se and in forma pauperis, commenced this action by filing a complaint dated April 8, 2019, alleging defendants violated his constitutional rights.

(Doc. # 2). Plaintiff filed an amended complaint (incorrectly titled a second amended complaint) dated October 16, 2019. (Doc. #40). On December 4, 2019, defendants filed two motions to dismiss: one on behalf of Correct Care Solutions, Dr. Salwa Khouri, and Ibrellis Diaz (the “CCS Defendants”) (Doc. #56); and one on behalf of the County of Orange, Sheriff Carl E. Dubois, Sgt. K. Lyons, and Captain James Potter (the “County Defendants”) (Doc. #60).

Plaintiff’s opposition to the motions to dismiss was due December 23, 2019. See Local Rule 6.1(b); Fed. R. Civ. P. 6(d). However, plaintiff requested, and the Court granted, an extension of time to January 16, 2020, for plaintiff to oppose the motion (Doc. #69).

To date, plaintiff has failed to file an opposition to the motions or request further extension of time in which to do so. In addition, on January 22, 2020, the CCS Defendants requested their motion be deemed fully submitted and unopposed (Doc. #71), and the County Defendants requested their motion be granted in its entirety in light of plaintiff’s failure to respond to the motion. (Doc. #73).

Accordingly, it is HEREBY ORDERED:

1. The CCS Defendants' request for the motion to be deemed fully submitted and unopposed is DENIED WITHOUT PREJUDICE.

2. The County Defendants' request for their motion to dismiss to be granted in its entirety in light of plaintiff's failure to respond to the motion is DENIED. See, e.g., Lopez v. City of New York, 2018 WL 1371164, at *3 (S.D.N.Y. Mar. 15, 2018) (collecting cases) ("Given [plaintiff's] pro se status, [plaintiff's] failure to oppose the motion is not fatal).¹

3. The Court sua sponte extends plaintiff's time to oppose the motion to February 24, 2020. Defendants' replies, if any, are due March 2, 2020.

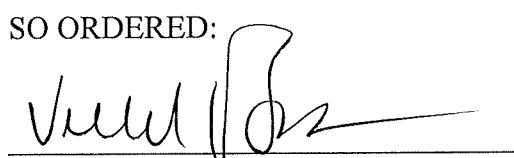
4. **If plaintiff fails to respond to the motion by February 24, 2020, the motion will be deemed fully submitted and unopposed.**

Chambers will mail a copy of this Order to plaintiff at the address on the docket.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith, and therefore in forma pauperis status is denied for the purpose of an appeal. Cf. Coppededge v. United States, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

Dated: January 23, 2020
White Plains, New York

SO ORDERED:



Vincent L. Briccetti
United States District Judge

¹ Plaintiff will be provided with copies of all unpublished opinions cited in this Order. See Lebron v. Sanders, 557 F.3d 76, 79 (2d Cir. 2009).